99TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
99-819

DECLARING THAT THE UNITED STATES HOLDS CERTAIN PUBLIC DOMAIN LANDS IN TRUST FOR THE PUEBLO OF ZIA

SEPTEMBER 12, 1986.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. UDALL, from the Committee on Interior and Insular Affairs, submitted the following

SEP 2 5 1986

REPORT

U. S. GOVT. PUBS
DEPOSITORY 376

[To accompany H.R. 5167]

[Including the cost estimate of the Congressional Budget Office]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 5167) to declare that the United States holds certain public domain lands in trust for the Pueblo of Zia, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 2, immediately before line 5, strike "East half of the northeast quarter and the northeast quarter of the southeast quarter of Section 3, Township 14 North, Range 1 East, New Mexico Principal Meridian." and insert "Lot 1, and the southeast quarter of the northeast quarter, and the northeast quarter of the southeast quarter of section 3, Township 14 North, Range 1 East, New Mexico Principal Meridian."

Page 3, lines 4 through 17, strike all of section 3, and renumber sections 4 and 5 as sections 3 and 4 respectively.

PURPOSE

The purpose of H.R. 5167 is to declare certain public domain lands to be held in trust by the United States for the benefit of the Pueblo of Zia.

BACKGROUND

H.R. 5167 provides that a parcel of land consisting of about 1840 acres which is now owned by the United States and administered

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by the Department of the Interior's Bureau of Land Management shall be declared to be held in trust by the United States for the benefit of the Pueblo of Zia.

The Pueblo of Zia is located 40 miles northwest of Albuquerque, New Mexico. The parcel of land to be transferred is located in Sandoval County, New Mexico and is within the boundaries of the current reservation of the Pueblo of Zia. The Pueblo holds grazing leases on the entire 1840 acres.

This legislation arises from the efforts by the Pueblo of Zia to protect the Pueblo's religious sites in the area and also from the Pueblo's desire to consolidate its land holdings. Historical documentation indicates that the area has been occupied by the Pueblo of Zia since the 14th century and current information indicates that the Pueblo of Zia is the only entity that has exclusively continued to use these 1840 acres. There are eight known religious sites on the 1840 acres which the Zia religious leaders regularly visit.

SECTION-BY-SECTION ANALYSIS

Section 1 provides that certain lands now owned by the United States and administered by the Bureau of Land Management and consisting of about 1840 acres located in Sandoval County, New Mexico, are hereby declared to be held in trust by the United States for the Pueblo of Zia.

Section 2 provides that upon enactment of this Act, the lands described in section 1 shall be administered like any other lands held in trust by the United States for Indian tribes. The section further provides that gross receipts received by the United States after enactment of this Act from the lands described in section 1 shall be administered in accordance with the laws applicable to receipts from property held in trust by the United States for Indian tribes.

Section 3 provides that all applications for mineral leases pending on the date of enactment of this Act shall be rejected.

Section 4 (a) provides that nothing in this Act shall affect certain valid existing rights to the lands described in section 1 provided that such rights were in existence on the day prior to the date of enactment of this Act.

Subsection (b) provides that the water rights appurtenant to the lands shall be those rights under State law in existence on the day prior to the day of enactment of this Act.

Subsection (c) provides that nothing in this Act shall affect the right-of-way for a 115-KV transmission line by Plains Electric and Transmission Cooperative, Inc. and that such right-of-way may be permitted to be renewed under the rules which would have been applicable if this Act had not been passed. The section also provides that except for fees charged with respect to any renewal of the right-of-way, the Pueblo of Zia may not impose any fee or tax on any lands, facilities or revenues in connection with this right-of-way.

Subsection (d) provides that nothing in this Act shall affect any oil or gas leases that were valid and subsisting on the day before the date of enactment of this Act. This Act shall not affect any rea-

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sonable access across the described lands in order to reach lands subject to such leases.

This subsection also provides that the lands subject to such oil and gas leases shall continue to be administered by the Bureau of Land Management in conformity with laws and policies applicable to oil and gas operations on the public domain.

COMMITTEE AMENDMENTS

The Committee adopted two amendments to the bill. One amendment is a technical amendment which corrects the land description contained in section 1, paragraph (b).

The second amendment strikes section 3 of the bill. The stricken language provided that the lands to be transferred under this bill shall not be subject to taxation. The stricken language also provided that any distribution of funds to tribal members, generated from certain receipts from the land shall not be subject to taxation or considered as income in determining the amount of financial assistance receivable under certain federal or federally assisted programs.

The stricken language was not necessary because under current law, lands held in trust by the United States for an Indian tribe are not subject to taxation. In addition, Section 7 of P.L. 97-458 and section 2(a) of P.L. 98-64, provide that per capita distributions of trust income to tribal members shall not be subject to taxation and that the first $2000 of each per capita share shall not be considered as income for the purpose of determining the amount of financial assistance available under any federal or federally assisted program. Current law also provides that no amount in such per capita shares shall be considered in determining financial assistance under the Social Security Act.

COST AND BUDGET ACT COMPLIANCE

The cost estimate, prepared by the Congressional Budget Office is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 8, 1986.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 5167, a bill to declare that the United States holds certain public domain lands in trust for the Pueblo of Zia, as amended and ordered reported by the House Committee on Interior and Insular Affairs on August 13, 1986.

We estimate that enactment of this bill would result in no significant cost to the federal government and no cost to state or local governments. This bill would declare that all surface and mineral rights in certain lands in New Mexico would be held in trust by the United States for the Pueblo of Zia. These lands currently are held by the United States and generate annual lease payments of about

$4,000, which under H.R. 5167 would go to the tribe instead of the federal government.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

RUDOLPH G. PENNER, *Director.*

INFLATIONARY IMPACT STATEMENT

Enactment of H.R. 5167 will have no inflationary impact.

OVERSIGHT STATEMENT

No specific oversight activities were undertaken by the Committee and no recommendations were submitted to the Committee pursuant to rule X, Clause 2(b)2.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs, by voice vote, recommends approval of the bill, as amended.

DEPARTMENT REPORT

The legislative report on H.R. 5167 received by the Committee from the Department of the Interior, is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, September 3, 1986.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is to present our views on H.R. 5167, a bill "To declare that the United States holds certain public domain lands in trust for the Pueblo of Zia."

We have no objection to the land transfer proposed by H.R. 5167 provided that the bill is amended to provide for payment by the tribe of fair market value for the land transferred from Bureau of Land Management (BLM) jurisdiction, and to relieve the BLM from any responsibility for administering the mineral leases on the land and for renewal of the rights-of-way. In keeping with Administration policy, the Pueblo of Zia as well as any other entity should be required to pay fair market value for public land.

Section 1 of H.R. 5167 provides that all right, title, and interest of the United States in approximately 1,840 acres of BLM land situated within Sandoval County, New Mexico, would be held in trust by the United States for the benefit and use of the Pueblo of Zia.

Section 2 provides that land transferred to the tribe under the provisions of the bill would be administered in accordance with laws generally applicable to property held in trust by the United States for Indian tribes. This section also provides that all gross receipts derived by the United States either directly or indirectly from this land and received by the United States after the date of enactment would be administered in accordance with laws general-

ly applicable to receipts from property held in trust by the United States for Indian tribes.

Section 3 of the bill as introduced would restate existing law by exempting the land transferred and receipts from such land from Federal, State, and local taxation as long as the property is held in trust. This section also sets out that any distribution of receipts from the land to tribal members would not be included as income or resources for the purpose of reducing or denying eligibility for Federal assistance programs. We are informed that section 3 was deleted by the Committee during mark-up on August 13. With this amendment, existing laws generally applicable to the distribution of tribal income to tribal members (25 U.S.C. 117b(a)) will apply to income from land involved in H.R. 5167. We support this amendment.

Section 4 would provide for the rejection of any applications for mineral leases pending on the date of enactment and require the return of any advance rental payments to the applicants.

Section 5 would provide that H.R. 5167 should not be interpreted to deprive any person of any lease, right-of-way, mining claim, grazing permit, water right, or other right or interest such person may have in the land the day before the date of enactment.

Section 5(b) would limit the water rights that are appurtenant to the land to those rights under State law on the day before enactment of H.R. 5167.

Section 5(c) would address the existing right-of-way on the subject land for a 115 KV transmission line issued to Plains Electric Generation and Transmission Cooperative, Inc. This right-of-way was granted on April 18, 1961. Section 5 sets out specific provisions regarding renewal rights concerning the right-of-way and that renewal fees would be determined by the BLM. The Pueblo of Zia would be prohibited from levying any additional charges, fees or taxes in connection with the transmission line right-of-way. We are informed that Plains Electric has been consulted with regard to this bill and their concerns have been addressed.

Section 5(d) would protect existing oil and gas leases on the land described in section 1, including the leases currently held by Yates Petroleum Corporation and Merle C. Chambers. The lease to Merle C. Chambers yields an annual rental of $1.00 per acre and will terminate on November 30, 1987. The lease to Yates Petroleum Corporation similarly yields an annual rental of $1.00 per acre and will terminate on April 30, 1993. We are informed that Yates Petroleum Corporation has been consulted with regard to this bill and their concerns have also been addressed. Under H.R. 5167, these leases will continue to be administered by the BLM with the receipts managed in accordance with laws applicable to receipts from property held in trust by the United States for Indian tribes.

We are informed that H.R. 5167 arises from efforts by the Pueblo of Zia to consolidate its land holdings and protect Pueblo religious sites in the area. The land to be transferred is within the boundaries of the current reservation. The Pueblo of Zia presently holds BLM grazing leases on the entire 1,840 acres. The land is surrounded by Indian land and is isolated from other lands managed by the BLM, making it difficult for the BLM to give proper management attention to the area.

The land is valued at approximately $200 per acre, based on the value of other comparable grazing land in the area, yielding an estimated fair market value of $368,000. There are no known minerals on the subject land. We believe that the purchase of the land would be within the Pueblo's means. In fact, in March 1980, the Pueblo purchased 320 acres of fee land from Mrs. Estrella Garcia. In conjunction with this purchase, the Pueblo obtained from Mrs. Garcia the BLM grazing permits to the land described in this bill. Since 1980, the fee land purchased by the Pueblo has been given trust status and is currently administered by the BIA.

As of this date, there is no oil and gas activity on the subject land and there is not expected to be any in the near future. To our knowledge no attempts have been made by either of the current lessees to actively explore for oil and gas.

The addition of the land to Zia Pueblo Reservation will not adversely impact Department of the Interior programs. In fact, it will clear up jurisdictional problems caused by having checkerboard land holdings and will enhance range management efforts for the Pueblo of Zia. It is for this reason that we do not oppose enactment of H.R. 5167. However, we know of no reason for conveying the land in question without payment of fair market value.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

RONALD L. ESQUERRA,
Acting Assistant Secretary.

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